

## § 4.60

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penalties may be applicable, as provided by under 19 U.S.C. 1459, in addition to other penalties applicable under other provisions of law.

[T.D. 93-96, 58 FR 67317, Dec. 21, 1993; 59 FR 1918, Jan. 13, 1994]

### FOREIGN CLEARANCES

#### § 4.60 Vessels required to clear.

(a) Unless specifically excepted by law, the following vessels must obtain clearance from CBP before departing from a port or place in the United States:

(1) All vessels departing for a foreign port or place;

(2) All foreign vessels departing for another port or place in the United States;

(3) All American vessels departing for another port or place in the United States that have foreign merchandise for which entry has not been made; and

(4) All vessels departing for points outside the territorial sea to visit a hovering vessel or to receive merchandise or passengers while outside the territorial sea, as well as foreign vessels delivering merchandise or passengers while outside the territorial sea.

(b) The following vessels are not required to clear:

(1) A documented vessel with a pleasure license endorsement or an undocumented American pleasure vessel (i.e., an undocumented vessel wholly owned by a United States citizen or citizens, whether or not it has a certificate of number issued by the State in which the vessel is principally used under 46 U.S.C. 1466-1467 and not engaged in trade nor violating the customs or navigation laws of the United States and not having visited any hovering vessel (see 19 U.S.C. 1709(d)).

(2) A vessel exempted from entry by section 441, Tariff Act of 1930. (See § 4.5.)

(3) A vessel of less than 5 net tons which departs from the United States to proceed to a contiguous country otherwise than by sea.

(c) Vessels which will merely transit the Panama Canal without transacting any business there will not be required to be cleared because of such transit.

(d) In the event that departure is delayed beyond the second day after clearance, the delay must be reported within 72 hours after clearance to the port director who will note the fact of detention on the certificate of clearance and on the official record of clearance. When the proposed voyage is canceled after clearance, the reason therefor must be reported in writing within 24 hours after such cancellation and the certificate of clearance and related papers must be surrendered.

(e) No vessel will be cleared for the high seas *except*, a vessel bound to another vessel on the high seas to—

(1) Transship export merchandise which it has transported from the U.S. to the vessel on the high seas; or

(2) Receive import merchandise from the vessel on the high seas and transport the merchandise to the U.S.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 85-91, 50 FR 21429, May 24, 1985; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 00-4, 65 FR 2873, Jan. 19, 2000; CBP Dec. 08-25, 73 FR 40725, July 16, 2008; CBP Dec. 10-33, 75 FR 69585, Nov. 15, 2010]

#### § 4.61 Requirements for clearance.

(a) *Application for clearance.* A clearance application for a vessel intending to depart for a foreign port must be made by filing Customs Form 1300 (Vessel Entrance or Clearance Statement) executed by the vessel master or other proper officer. The master, licensed deck officer, or purser may appear in person to clear the vessel, or the properly executed Customs Form 1300 may be delivered to the customhouse by the vessel agent or other personal representative of the master. Necessary information may also be transmitted electronically pursuant to a system authorized by Customs. Clearance will be granted by Customs either on the Customs Form 1300 or by approved electronic means. Customs port directors may permit the clearance of vessels at locations other than the customhouse, and at times outside of normal business hours. Customs may take local resources into consideration in allowing clearance to be transacted on board vessels themselves or at other mutually convenient sites and times

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either within or outside of port limits. Customs must be satisfied that the place designated for clearance is sufficiently under Customs control at the time of clearance, and that the expenses incurred by Customs will be reimbursed as authorized. Customs may require that advance notice of vessel departure be given prior to granting requests for optional clearance locations.

(b) *When clearance required.* Under certain circumstances, American vessels departing from ports of the United States directly for other United States ports must obtain Customs clearance. The clearance of such vessels is required when they have merchandise aboard which is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel clearance requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with usual clearance procedures, American vessels carrying no unentered foreign merchandise but that have in-bond merchandise aboard may satisfy vessel clearance requirements by reporting intended departure within 72 hours prior thereto by any means of communication that is satisfactory to the local Customs port director, and by presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement). Also, the Customs officer may require the production of any documents or papers deemed necessary for the proper inspection/examination of the vessel, cargo, passenger, or crew. Report of departure together with providing information to Customs as specified in this paragraph satisfies all clearance requirements for the subject vessels.

(c) *Verification of compliance.* Before clearance is granted to a vessel bound to a foreign port as provided in §4.60 and this section, the port director will verify compliance with respect to the following matters:

- (1) Accounting for inward cargo (see §4.62).
- (2) Outward Cargo Declarations; shippers export declarations (see §4.63).
- (3) Documentation (see §4.0(c)).

(4) Verification of nationality and tonnage (see §4.65).

(5) Verification of inspection (see §4.66).

(6) Inspection under State laws (46 U.S.C. App. 97).

(7) Closed ports or places (see §4.67).

(8) Passengers (see §4.68).

(9) Shipping articles and enforcement of Seamen's Act (see §4.69).

(10) Medicine and slop chests.

(11) Load line regulations (see §4.65a).

(12) Carriage of United States securities, etc. (46 U.S.C. App. 98).

(13) Carriage of mail.

(14) Public Health regulations (see §4.70).

(15) Inspection of vessels carrying livestock (see §4.71).

(16) Inspection of meat, meat-food products, and inedible fats (see §4.72).

(17) Neutrality exportation of arms and munitions (see §4.73).

(18) Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100).

(19) Orders restricting shipping (see §4.74).

(20) Estimated duties deposited or a bond given to cover duties on foreign repairs and equipment for vessels of the United States (see §4.14).

(21) Illegal discharge of oil (see §4.66a).

(22) Attached or arrested vessel.

(23) Immigration laws.

(24) Electronic receipt of required vessel cargo information (see §192.14(c) of this chapter).

(d) *Vessel built for foreign account.* A new vessel built in the United States for foreign account will be cleared under a certificate of record, Coast Guard Form 1316, in lieu of a marine document.

(e) *Clearance not granted.* Clearance will not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel (22 U.S.C. 454a).

(f) *Clearance in order of itinerary.* Unless otherwise provided in this section, every vessel bound for a foreign port or ports will be cleared for a definite port or ports in the order of its itinerary, but an application to clear for a port or

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place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

[T.D. 00–4, 65 FR 2874, Jan. 19, 2000; T.D. 00–22, 65 FR 16515, Mar. 29, 2000; CBP Dec. 03–32, 68 FR 68169, Dec. 5, 2003]

#### § 4.62 Accounting for inward cargo.

Inward cargo discrepancies shall be accounted for and adjusted by correction of the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, but the vessel may be cleared and the adjustment deferred if the discharging officer's report has not been received. (See § 4.12.)

[T.D. 77–255, 42 FR 56322, Oct. 25, 1977, as amended by T.D. 84–193, 49 FR 35485, Sept. 10, 1984]

#### § 4.63 Outward cargo declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see § 4.87(b)), unless there has been filed with the appropriate Customs officer at the port from which clearance is being sought:

(1) A Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A. Copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest must be attached in such manner as to constitute one document, together with a Vessel Entrance or Clearance Statement, Customs Form 1300, and export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce; or

(2) An incomplete Cargo Declaration as provided for in § 4.75.

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, in the marginal column headed "B/L No." If an export declaration is not required for a shipment, a notation shall be made on the Cargo Declaration Out-

ward With Commercial Forms (Customs Form 1302–A) describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see 15 CFR 30.39, 30.50 through 30.57) where the particular exemption is provided. If shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial documents is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required.

(c) The following minimal information shall be included on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A (other information required to be on a Customs Form 1302–A as shown on the form itself must also be included thereon) or on attached copies of bills of lading or equivalent commercial documents:

- (1) Name and address of shipper;
- (2) Description of the cargo (see paragraph (d) of this section);
- (3) Number of packages and gross weight (see paragraph (d) of this section);
- (4) Name of vessel or carrier;
- (5) Port of exit (this shall be the port where the merchandise is loaded on the vessel); and
- (6) Port of destination (this shall be the foreign port of discharge of the merchandise).

(d) If the bills of lading or equivalent commercial documents attached to the Customs Form 1302–A show on their face the cargo information required by columns 6, 7, and either column 8 or 9, of the Customs Form 1302–A, that information need not be shown again on the Customs Form 1302–A. However, in that case, the cargo information must be incorporated by a suitable reference on the face of the Customs Form 1302–A such as "Cargo as per attached commercial documents."